City of Lafayette Staff Report

For: City Council

By: Christine Sinnette, Senior Planner

Date Written: June 1, 2009

Meeting Date: June 8, 2009

Subject: **GP02-08, CITY OF LAFAYETTE (APPLICANT), ANNA MARIA DETTMER TRUST, MICHAEL & SARA KIM, ZBIGNIEW NAGLICKI LIVING TRUST, STATE OF CALIFORNIA (OWNERS):** Initiate proceedings to amend General Plan Map I-1 to reclassify four properties (APN 232-140-004, 232-140-010, 232-140-016, and 232-150-021) located on Deer Hill Road from Low Density Single Family Residential to Rural Residential Single Family and one property (232-140-014) on Deer Hill Road from Administrative/Professional/Office/Multifamily Residential to Rural Residential Single Family. The City may also consider initiating proceedings to amend General Plan Map I-1 to reclassify two properties (APN 232-150-027 and 232-150-028) located on Deer Hill and Pleasant Hill roads from Administrative/Professional/Office/Multifamily Residential to Rural Residential Single Family and/or Low Density Multifamily Residential.

RZ02-08, CITY OF LAFAYETTE (APPLICANT), ANNA MARIA DETTMER TRUST, MICHAEL & SARA KIM, ZBIGNIEW NAGLICKI LIVING TRUST, STATE OF CALIFORNIA (OWNERS): Initiate proceedings to change the zoning designation for four properties (APN 232-140-004, 232-140-010, 232-140-016, and 232-150-021) located on Deer Hill Road from R-20 to L-R-10 and one property (232-140-014) on Deer Hill Road from APO to L-R-10. The City may also consider proceedings to initiate rezoning two properties (APN 232-150-027 and 232-150-028) located on Deer Hill and Pleasant Hill roads from APO to L-R-10 and/or MRP and/or MRT.

Background

On October 9, 2008, the City Council directed staff to initiate a change of zoning for parcels 232-140-004, 232-140-010, 232-140-014, 232-140-016, and 232-150-021 to LR-10 (with corresponding General Plan designations) and to work with the property owner of parcels 232-150-027 and 232-150-028 on the terms of a development agreement. See Attachment 1 – Parcels and Ownership and Attachment 2 – Current General Plan and Zoning Designations.

In October 2008, and January and February 2009, the City Attorney and staff met with the property owner and/or her representatives to discuss a development agreement. One of the meetings included a development company interested in purchasing all four of the Dettmer

properties. To date, no one has submitted information or a development proposal on which to base a development agreement for her properties. At their meeting of March 23, 2009, the Council continued the public hearing on these applications to June 8 to allow the applicant to provide such information or a preliminary development proposal[1] and directed staff to return with a recommendation on the zoning and General Plan designations for parcels 27 and 28. See Attachment 3 – City Council meeting minutes.

Purpose of Meeting

The purpose of this meeting is to provide the City Council with a status report, provide direction to staff to initiate proceedings for the amendment of General Plan and zoning designations, and to comply with Government Code section 66474.2(b), which allows the City to apply any ordinances, policies or standards enacted or instituted as a result of these proceedings, which are in effect on the date the City approves or disapproves a tentative map, rather than the date the City determined the map application complete.

Project Description

The current project description for GP02-08 and RZ02-08 is identified in Table 1.

Table 1
Proposed General Plan and Zoning Designations

Properties	Property Owner	Current General Plan	Current Zoning	Proposed General Plan	Proposed Zoning
232-140-0**04**	Naglicki	Low Density Single Family Residential	R-20	Rural Residential Single Family	LR-10
232-140-0**10**	Dettmer Trust	Low Density Single Family Residential and Rural Residential Single Family	Split R-20 & LR-10	Rural Residential Single Family	LR-10
232-140-0**14**	Caltrans	Administrative/Professional/ Office/Multi-family	APO	Rural Residential Single Family	LR-10
232-140-0**16**	Dettmer Trust	Low Density Single Family Residential and Rural Residential Single Family	Split R-20 & LR-10	Rural Residential Single Family	LR-10
232-150-0**21**	Kim	Low Density Single Family Residential and Rural Residential Single Family	Split R-20 & LR-10	Rural Residential Single Family	LR-10
232-150-0**27**	Dettmer Trust	Administrative/Professional/ Office/Multi-family	APO	TBD	TBD
232-150-0**28**	Dettmer Trust	Administrative/Professional/ Office/Multi-family	APO	TBD	TBD

[1] A letter was sent to Ms. Dettmer on April 7, 2009 stating the City Council had continued the hearing to June 8, 2009 to allow her to submit a development proposal for her properties. When nothing was received by May 19, as requested, an e-mail reminder was sent to her legal representatives. Neither the letter nor e-mail resulted in a response to staff.

Discussion

Parcel 27 is a 22.26-acre lot physically divided by a drainage channel and topography into a 20.49± acre "upper" portion west of a northwest/southeast trending drainage channel and a 1.76± acre "lower" portion adjacent to Pleasant Hill Road. The property is highly visible from many off-site locations and about one-third of the upper portion is located within a Class I ridgeline setback (see Attachment 4). If zoned residential it would be subject to Chapter 6-20 – Hillside Development. Chapter 6-20 would also apply if a residential project were proposed for the property.

Parcel 28 is a 1.91-acre site located adjacent to Pleasant Hill Road. It is relatively level adjacent to the roadway then slopes steeply to the west. Approximately .81 acres of the parcel contains slopes of 30 percent or greater. If the property were zoned residential, it would be subject to Chapter 6-20 – Hillside Development. Chapter 6-20 would also apply if a residential project were proposed for the property. This parcel is entirely within a Class I ridgeline setback (see Attachment 5).

Throughout the public hearings on the former GP and RZ applications, various zoning classifications were considered by the Planning Commission including LR-10, LR-5, R-20, MRP, and MRT. At the March 23rd meeting, a majority of the Councilmembers supported a rezone to LR-10 for the upper portion of Parcel 27 and MRT for the lower portion of Parcel 27 and Parcel 28. LR-5 was also suggested for the upper portion of Parcel 27. There did not appear to be any support for mixed office/residential zoning for either of the parcels. Table 2 summarizes the LR-10, LR-5, and MRT zoning designations. See Attachment 6 for more information on these zoning designations.

Table 2
Summary of Zoning Districts

Zoning District	Purpose	Typical Allowed Uses *(other than residential)*	Allowed Density	Building Height
LR-10 Low Density Residential -10	Provide for areas of low-density residential uses consistent with the GP and the City's primary objective of preservation & enhancement of its semi-rural residential character.	Livestock keeping; small farming. Use permit required for: church, school, farming, grazing, community recreation, horse riding school	1 dwelling unit per 10 acres	30 feet or 2 ½ stories whichever is less.
LR-5 Low Density Residential - 5	Provide for areas of low-density residential uses consistent with the GP and the City's primary objective of preservation & enhancement of its semi-rural residential character.	Livestock keeping; small farming. Use permit required for: church, school, farming, grazing, community recreation, horse riding school	1 dwelling unit per 5 acres	30 feet or 2 ½ stories whichever is less.

Zoning District	Purpose	Typical Allowed Uses *(other than residential)*	Allowed Density	Building Height
MRT Multiple-family Residential Townhouse	Provide a medium-density residential district for townhouse[2] development consistent with the City's overall objective of the preservation & enhancement of its semi-rural residential character.	Use permit required for: eleemosynary & philanthropic institutions, convalescent & boarding homes	up to 17 dwelling units per acre	25 feet

Any of these designations could be considered by the City Council based on previous Council direction as all are identified as residential in the Zoning Ordinance and review of the goals and policies for the Deer Hill area as identified in the General Plan (See Attachment 7 for an excerpt from the General Plan identifying the goals and policies for the Deer Hill area.) Staff is therefore recommending that the City Council include the zoning and General Plan designations identified in Table 3 in the project description for GP02-08 and RZ02-08.

Table 3
Recommended General Plan and Zoning Designations for Parcels 27 and 28

Parcel	Proposed General Plan	Proposed Zoning
27 upper portion *(west of drainage)* 20.49± ac.	Rural Residential Single Family: Up to .1 du/acre	LR-10
27 lower portion *(east of drainage)* 1.76± ac.	Low Density Multi-Family Residential: Up to 17 du/acre	MRT
28 1.91 ac.	Low Density Multi-Family Residential: Up to 17 du/acre	MRT

It is staff's opinion that these zoning and General Plan designations are appropriate because they take into account regulatory and environmental constraints such as ridgeline setbacks and riparian habitats and balance the City's desire to retain the semi-rural character of its hillside lands with the needs of private property owners.

Once the project descriptions for GP02-08 and RZ02-08 are chosen, the appropriate environmental documents will be prepared. One or more public hearings on the environmental documents and applications will take place before the Planning Commission for a recommendation to the City Council for final consideration on GP02-08 and RZ02-08.

[2] The zoning ordinance defines "townhouse" as an attached or detached family unit with air space or air space and yard space for each individual unit. Townhouse ownership may include ownership of common grounds or facilities.

Public Notice

The March 23, 2009 public hearing was duly noticed. Since this meeting is a continuation of that public hearing, no new public notice is required.

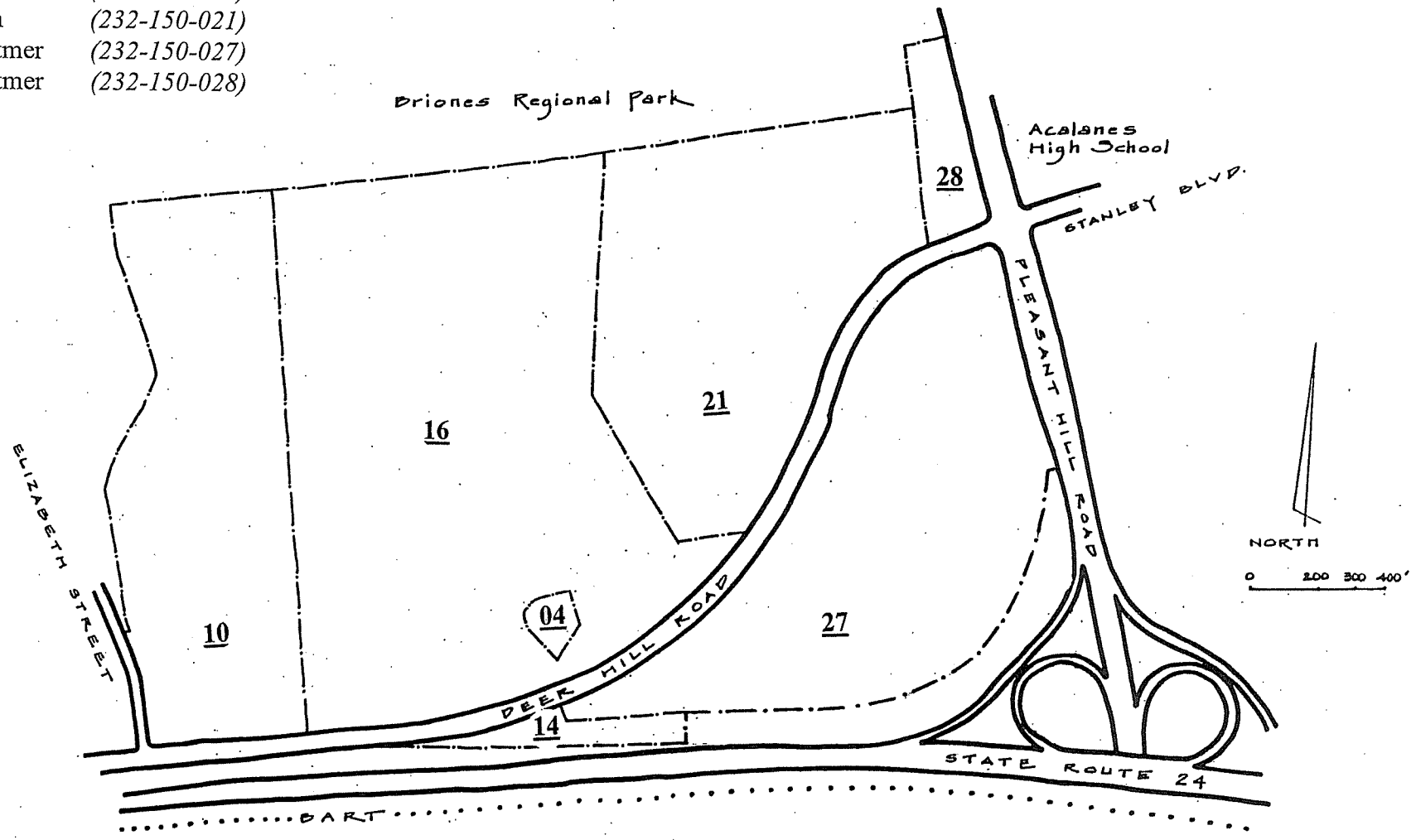
Staff Recommendation

Conduct the public hearing, consider the matter, and direct staff to initiate proceedings to amend the General Plan and zoning designations and proceed with environmental review by motion.

Attachments

1 Eastern Deer Hill Road Parcels and Ownership
2. Current General Plan and Zoning Designations
3. Minutes from March 23, 2009 City Council Meeting
4. Parcel 27 – Class 1 Ridgeline
5. Parcel 28 – Class 1 Ridgeline
6. LR-10, LR-5, and MRT Zoning Districts
7. Excerpt from Land Use Chapter of the Lafayette General Plan

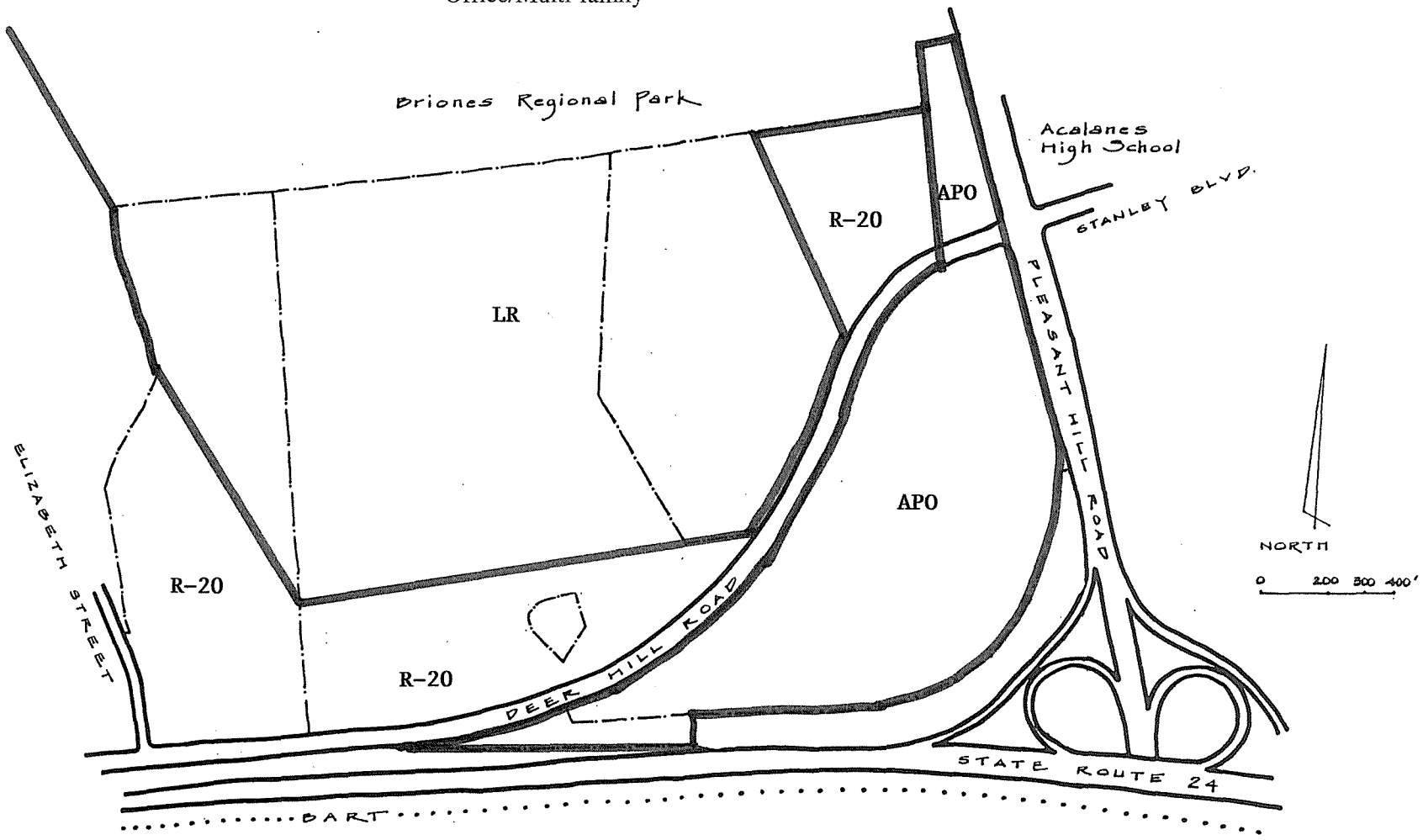
04	Naglicki	*(232-140-004)*
10	Dettmer	*(232-140-010)*
14	Caltrans	*(232-140-014)*
16	Dettmer	*(232-140-016)*
21	Kim	*(232-150-021)*
27	Dettmer	*(232-150-027)*
28	Dettmer	*(232-150-028)*



EASTERN DEER HILL ROAD

ATTACHMENT 1

Zoning	General Plan
LR	Rural Residential Single Family
R-20	Low Density Single Family
APO	Administrative/Professional Office/Multi-family



EASTERN DEER HILL ROAD

ATTACHMENT 2

9. **STAFF REPORTS**

A. **Ann Merideth, Community Development Director**

Introduce Ordinance 582 regarding the SB 1045 amendment to the Lafayette Redevelopment Plan on the effectiveness and time limit to receive tax increment

Recommendation: Introduce Ordinance 582 and continue to April 13, 2009 for second reading and adoption.

Community Development Director Merideth said in 2003 the state legislature adopted SB 1045 which gave all redevelopment agencies an extra year to add on to the life of their projects. Staff was not aware of it previously, but now has a consultant to amend the Redevelopment Plan on some other items and they pointed this out to staff.

ACTION: It was M/S/C (Federighi/Anderson) to introduce Ordinance 582 and continue to April 13, 2009 for second reading and adoption. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

10. **PUBLIC HEARINGS**

A. **Christine Sinnette, Senior Planner**

Initiate Proceedings to Amend General Plan Map I-1 to reclassify four properties (APN 232-140-004, 232-140-010, 232-140-016, and 232-150-021) located on Deer Hill Road from Low Density Single Family Residential to Rural Residential Single Family and one property (232-140-014) on Deer Hill Road from Administrative/Professional/Office /Multifamily Residential to Rural Residential Single Family. The City may also consider initiating proceedings to amend General Plan Map I-1 to reclassify two properties (APN 232-150-027 and 232-150-028) located on Deer Hill and Pleasant Hill roads from Administrative/Professional/Office/Multifamily Residential to Rural Residential Single Family and/or Low Density Multifamily Residential. GP02-08, CITY OF LAFAYETTE (APPLICANT), ANNA MARIA DETTMER TRUST, MICHAEL & SARA KIM, ZBIGNIEW NAGLICKI LIVING TRUST, STATE OF CALIFORNIA (OWNERS)

Initiate Proceedings to change the zoning designation for four properties (APN 232-140-004, 232-140-010, 232-140-016, and 232-150-021) located on Deer Hill Road from R-20 to L-R-10 and one property on Deer Hill Road from APO to L-R-10. The City may also consider initiating proceedings to rezone two properties (APN 232-150-027 and 232-150-028) located on Deer Hill and Pleasant Hill roads from APO to L-R-10 and/or MRP and/or MRT.

RZ02-08, CITY OF LAFAYETTE (APPLICANT), ANNA MARIA DETTMER TRUST, MICHAEL & SARA KIM, ZBIGNIEW NAGLICKI LIVING TRUST, STATE OF CALIFORNIA (OWNERS)

Recommendation: Conduct the public hearing, consider the matter and direct staff to initiate proceedings to amend the General Plan and zoning designations by motion.

City Attorney Mala Subramanian said the Council last met on October 13, 2008 jointly with the Planning Commission at which time the Council directed staff to initiate a zoning change for five of the parcels to LR-10and to work with the property owner of the two parcels that are designated APO on a development agreement and a specific plan and to return to the Council within 3 months and report on the status of discussions.

Since that time, staff has met with the property owner and her representatives three times. We, met in October after the Council meeting with Anna Maria Dettmer and her attorney to discuss a development agreement and a specific plan. At that time, they wanted the development

ATTACHMENT 3

agreement to be on all four of their properties if it was to be considered and negotiated between parties and not just the two that are designated APO.

They again met in January with Ms. Dettmer's attorneys at which time they informed staff that there is a potential new developer who is purchasing the property; Reynolds and Brown, who is interested in acquiring the property from the Dettmer Trust and eventually developing it. They wanted to meet with staff and the Mayor, at which time a third meeting was held in February. They discussed potential development of the property and the possibility of an assisted living project on the property. At that time, staff exceeded the three-month status update and staff is now able to provide more details and asked how to further proceed.

Ms. Sinnette said prior to moving forward with the environmental review process for the five properties previous initiated for designation to LR-10 for, staff needs to determine what to do with two parcels on Pleasant Hill Road, which are Parcels 27 and 28. Parcel 27 is a 22 acre parcel on the corner that is above the highway and Parcel 28 is a smaller parcel where there used to be a former gas station.

During the previous General Plan hearings before the Council and Planning Commission, a number of other options were considered for the two properties which included LR-10, LR-5, R-20 and MRP and MRT, which are described in the staff report. Any of the designations could be considered by the Council based upon previous Council direction, as all are identified as residential in the Zoning Ordinance and review of the goals and policies for the Deer Hill area as identified in the General Plan.

Staff recommends the Council conduct a public hearing, consider the matter, and direct staff to initiate proceedings to amend the General Plan and Zoning designation.

Mayor Tatzin said he was reading through the minutes included in the packet regarding the October Council review. As he recalls, there were some suggestions that were inappropriate for the Council to act at that time, particularly on Parcels 27 and 28 because the General Plan called for a specific plan to be done for the area, but this did not preclude the Council from moving ahead with a rezoning. City Attorney Subramanian confirmed this was the case.

Mayor Tatzin said Parcel 27 has a lot of elevation difference, some of which is in the ridgeline setback. He questioned if it was possible to split the zoning on the parcel. Ms. Sinnette said the City does permit this and in fact some of the parcels farther east actually have split zoning on them now. Staff suggests that there be some demarcation or definition of where the line is drawn, which could be the creek channel, the road, or a contour elevation.

Vice Mayor Andersson referred to Parcel 28 and said the map shows it to be almost completely within the ridgeline setback and he questioned its implications. Ms. Sinnette said since the property is totally encumbered by the Class I setback, the City would have to determine the development potential in relationship to a taking, and therefore, there would need to be at least one dwelling unit allowed on the property to avoid this situation. She said there are also specific findings that need to be made.

Mayor Tatzin questioned and confirmed with Ms. Sinnette that residential use was not required under Parcel 28's current zoning and the ridgeline ordinance had no role on the parcel's current zoning. She said both parcels are not currently subject to the hillside regulations because they are not residentially zoned, unless they subdivide or they build residential. She said they could build commercial without complying.

Councilmember Federighi said in the minutes of October 9th staff at that point had not confirmed that the City could accommodate 361 units on RHNA allocations for 2013 within the downtown, and Ms. Srivatsa said this has been confirmed; the City can accommodate RHNA numbers within the downtown.

Vice Mayor Andersson referred to page 3 of 5 of the staff report, Table 2, the third line down for Parcel 27; the maximum allowed density under § 6-2043 shows 14.0 dwelling units, and later on it shows, maximum allowed density for the upper portion is 17 dwelling units. He questioned if this was a discrepancy and if so, what did they mean. Ms. Sinnette said there is no discrepancy; this is something the Planning Commission had asked for. For some reason, if the City allowed a lot split where the upper portion was split from the lower portion, strictly based on the slope that could be the density. But for practical purposes for the entire parcel, the City is looking at 14 dwelling units as potentially being allowed if the property were subject to the hillside ordinance.

The public hearing was opened.

MIKE KIM, referred to Parcel 21, shares the City's views of the town maintaining open space and rural ness, said they purchased the ranch property and worked hard financially to keep it. He noted his memorandum submitted focuses on 3 key points: 1) high price tag of the property when they purchased it last year and the underlying zone value. To downzone the property would be damaging to them; 2) currently, refinancing is difficult; part of the calculation of refinancing is the loan to value ratio which is an impediment to his ability to refinance to a more stable product; and 3) his intention is to never develop the property, but to keep and build upon what the previous ownership has done. In his view, the zoning in place is commensurate and reflective of the value of maintaining open space and low density development, and he did not see any incompatibility as to what the current zoning is.

DAVID BOWIE, representing the Dettmer properties, said when he looked at this topic he was somewhat surprised because at the last October meeting the direction was to work with the applicant with respect to the Dettmer's towards a development agreement. During that time period, they identified a developer with whom they are currently working, are in a position to begin forming a project to bring before the Council in a concrete sense, and there is no reason to consider any kind of down zoning or a general plan amendment and he would not favor this. In part, they are trying to respond to the direction given but also setting aside the more general consideration, which is simply that, in looking at the properties, he cannot think of any reason why down zoning should even be initiated by the City at this particular time. The General Plan calls for the existing zoning. The Housing Element of the General Plan allocates housing units to the Dettmer's properties in part and there is no indicated over-riding state value or interest that anybody has identified which would suggest there is a need for down-zoning at this time. In addition, there is actually been no study whatsoever that has been undertaken to decide what the real constraints of the property might be, what types of environmental consideration should be undertaken and there has been no effort to comply with the State statute that would require the event of a down zoning when units have been allocated to a particular property; that there be findings specifically made that you can otherwise meet all of the unit allocation for affordable housing purposes. There has been nothing of this sort undertaken whatsoever. Under these circumstances, he thinks it would be inappropriate for there to be any kind of reduction in the current zoning and suggest that it be left as is. He said obviously, down zoning has a material economic impact upon his client and just as Mr. Kim noted previously, if the Council were to downzone the two properties, he situation would affectively be an economic taking of virtually all of the value of the property. He noted that in this area, we are not dealing with pristine hilltops but

areas already cut, graded, there are existing plateaus, this is not an area where there is a ridgeline even that extends the way it was originally designed. There are no real types of features that the City puts on its list of priority they are trying to protect. He therefore asked that the Council not move forward with the process at this time because he is prepared to come in with a concrete project and in that context, work out a development agreement, as well.

Councilmember Anderson questioned whether the potential development agreement would be for Parcels 27 and 28. Mr. Bowie said he believes it makes sense to do a development agreement that would involve all of the Dettmer properties. The discussions they have had involve a sale of all of the properties and a master plan of all properties so they can come up with the best uses for these properties consistent with the General Plan and the City's goals.

Mayor Tatzin asked Mr. Bowie to characterize for the Council the nature of the proposed development that was described at their meeting for Parcel 27. Mr. Bowie said Parcel 28 was not specifically discussed and he could not imagine it as a single family residence, but they primarily were interested in Parcel 27. The actual proposal would involve all of the parcels. The interest for Parcel 27 is development of a senior citizens housing project; something that would not necessarily be subsidized but more of a market rate project with an affordable element to it. It would be designed to take care of the needs for people who have lived in Lafayette for many years who would want to live in a smaller, more modern home and still stay in the community.

Mayor Tatzin questioned the part of the lot the project would be proposed to be located on. Mr. Bowie said logically, most of it would go into the area where the current graded plateau is located. He said he drove the area to determine visibility and what could be seen. From lower elevations, there is not much which can be seen because of angles. If an appropriate landscape screening was done across the plateau area, there would be a situation where you could largely render the building invisible. He said an example would be Orinda Woods where there are 8,000 to 12,000 square foot buildings which are screened by vegetation. Because of the site distance issues looking up, when there is a flat plateau, it is much more obscure than a hillside would be and with screening, landscaping, berming and/or excavation, one could end up with a project that would essentially be invisible from all lower viewing elevations. He believe they could come up with an attractive, market driven, high quality, more dense project in that portion of the property that would also serve the housing needs of the Housing Element.

Mayor Tatzin questioned what was proposed for the lower portion of Parcel 27. Mr. Bowie said he believes they would try and do more of a clustered housing and they would be prepared to deed substantial portions of the property into open space. They could address development of all parcels together and as a trade-off for development density, create more open space. There was some general thought that an administrative office building might be appropriate for the former gas station site, which he felt would be an appropriate use for that site.

Councilmember Federighi referred to high quality senior residence and she questioned whether this would be assisted living or independent living. Mr. Bowie said the contemplation of the developer would not be assisted living, but an independent living project primarily directed toward the empty nester Lafayette resident who no longer needs or wants a 3,000 or 4,000 square foot single family residence.

MARTIN LYSONS, representing Ana Maria Dettmer and the Trust, said he submitted a letter on Friday regarding Ms. Dettmer's willingness to move forward with the development agreement. He is in agreement, is of the position that the City is moving this down zoning in a vacuum and supports the notion of a development agreement that will provide them with something specific to

move forward with. Currently, it is a City-initiated application. The City puts itself in this position to be on the hook for the CEQA costs, consultant costs and the costs related to the down zoning in general. Practically, he believed it was better for the City to let a developer come forward with a reasonable development plan for the property, such as the one that is currently in a developmental stage. The consultants can also have a clear direction as to what needs to be studied, given their specific project. The Commission and Council will also have all of the information needed to make an informed decision and they will not have to make a decision in a vacuum. There has been the proposal for the senior housing and again it is in its infant stages, but this is one of the thousands of possible ideas put forth for the various properties. He said Mr. Bowie mentioned clustering, office use for Parcel 28, but these parcels require creative thinking and a blanket action against the wide range of options available would stifle that creativity. He asked the Council to consider not moving forward with any general down zoning unless and until there is a specific proposal that could be brought forward.

Councilmember Anderson said Mr. Lysons indicates the Council is operating in a vacuum, but there was a great deal of study done by the Planning Commission looking particularly at upgrades on Parcel 27 and Parcel 28, and he asked if Mr. Lysons was familiar with those. Mr. Lysons said he was familiar with them, he has been associated with the process for some time, and they did have an opportunity and constraints analysis done for the property; however, it looked more like a constraints analysis. It did not investigate in any detail the possibilities that could be done for the current proposal, such as the clustering or split zoning potential.

GUY ATWOOD said the Spring Hill Board has discussed the property and does support staff recommendation for the General Plan amendment. He believed there were false statements made, said the Council had voted unanimously to change the zoning on the parcels, and interesting to him is that the Council asks for a development plan and there has not been any action on the property. Every plan that comes before the City for the last 10 years indicates it is for senior nesters, and there have not been any senior nesters living in the projects done. The owner wants to combine the properties and somehow achieve more density by combining the properties and using trade-offs between some of the other parcels. He suggested the Council move forward and if the maximum density is 14, the application will need to come in close to that, given some flexibility for clustering; however, he felt the point is that this is all that could be done. The constraints and opportunities analysis was very clear and there is not much which can be done when applying the regulations of the City to the properties. He noted it was also the second worse intersection in the City of Lafayette.

Mayor Tatzin said staff actually did not make a recommendation regarding the General Plan designation for parcels 27 and 28 and asked that Council provide direction. He said Mr. Bowie commented that they have not figured out how to take the housing for the RHNA process elsewhere, and he questioned how many units were allocated to the parcels. Ms. Srivatsa said in the current housing inventory or Housing Element, the properties are not included. She thought Mr. Bowie was referring to the total General Plan build out. City Attorney Subramanian added that therefore, the findings Mr. Bowie mentioned are not required.

DAVID BOWIE said he reviewed the Housing Element from the General Plan on Schedule 23, which refers to the APO properties in terms of the potential allocation of units, which discusses an allocation of 140 units. Ms. Srivatsa said there is a difference between the inventory to show that the City has capacity for their regional housing allocation, which is different from the Table Mr. Bowie refers to, which allocates units for all parcels within the City by zoning district to calculate the general build-out. Mr. Bowie said, however, the Housing Element currently calculates 140

units allocated mostly to the Dettmer property or APO designation. The Government Code requires there be specific findings made by the Council in the event there is a down-zoning.

Mayor Tatzin said if the Council were to proceed with making something other than APO and if that were a requirement that would be part of the process and he believed there would need to be an environmental review. City Attorney Subramanian said correct; this is initiating the proceedings.

Councilmember Anderson believed that the Council wanted this to return to give the property owner an opportunity to work with staff and arrive at something along the lines of the specific plan. He was almost willing to delay the process a bit, but also inclined to move forward on a split zoning on Parcel 27. He felt the city gave the opportunity for the property owners to look at the opportunity to work out something and he has not seen anything yet.

Mayor Tatzin said he believed it had not been a normal period from October through March, and one might argue that perhaps the property owners had not done enough to demonstrate that they were trying to determine how to use the property. He said the last five months it has been harder to get the attention of developers who might otherwise try to salvage projects that are rapidly moving under water or losing their financing. Having said this, it has been years since the Council adopted the hillside ordinance and General Plan and the Council has been split on how intense the development of the parcels should be. He consistently advocated that with respect to the plateau portion of Parcel 27, it is highly visible and difficult to conceal much of anything, and that berming will not work. He is willing to consider more study for the lower portion of Parcel 27, he believed Parcel 28 was very difficult, and with regards to Mr. Kim's property, there are some portions that could be developed at a higher density without having visual impacts, but his preference would be to find a way to address that without creating spot zoning, and he believed parcels farther to the west tend to be more visible.

Vice Mayor Andersson discussed situations where reminder letters are sent and an example of things happening at the eleventh hour. The point made by Mayor Tatzin about the last 5-6 months is valid. His feeling is that the plateau area is not very visible and one could make it much less visible with vegetation. As he looks at the 7 parcels, the Dettmer property is 4 of those parcels. If the Dettmer property were developed as a comprehensive plan, the Kim property could be developed more specifically. He said he would actually be curious to see what kind of development proposal came regarding the properties and would like to provide a little time for this to be developed and hold onto the rezoning for awhile.

Councilmember Federighi said she believes the other Dettmer properties are 10 and 16. She said she is less troubled about a proposal coming to the Council at this point. Discussions were whether or not a development agreement could be feasible, and it sounds as if the property owner wants to look at this. She has mixed feelings about including 10 and 16 with 27 and 28. To her, 27 is different from 10, 16 and 21 partly because of the flatter ground, Pleasant Hill road and the large plateau area. Like Mayor Tatzin, she felt the top portion was quite visible. She remembers seeing trucks parked up there and they could be seen from below; however, she would be willing to look at a plan to see if a one-story development could be concealed from below. If well concealed from below, she would be willing to look at it. Another thought would be to do split zoning on Lot 27. She does not believe LR-10 is appropriate for the upper portion, but rather LR-5.

Councilmember Anderson questioned if staff was recommending moving all at once, assuming under one General Plan Amendment. Ms. Sinnette said yes. The City is going to use an outside consultant to do the environmental review and it would be better to do it all at once.

Councilmember Anderson said he would be willing to give a little more time to let the Dettmer's and staff discuss the proposal prior to taking any action. Vice Mayor Andersson asked for a much more firm proposal.

Mayor Tatzin said assuming there is more discussion, whether it is with the proposed buyer or someone new, he asked at what point the City would be locked into reviewing an application under the current zoning. City Attorney Subramanian said it would occur once the applicant submits a complete application and the current zoning would apply.

Mayor Tatzin said a lot of things we spend time thinking about the hillside ordinance do not apply particularly to Parcel 27 at all, and he questioned whether the Council would want to initiate a split zoning of that parcel as a policy. Ms. Subramanian said the ordinance would apply as a residential use, but if it was an office or commercial use, it would not apply. Mayor Tatzin said to the extent that this is in the upper part of Parcel 27 and in the hillside setback, he questioned how it would be applied. Ms. Sinnette said under the current APO, if the applicant came in with a residential project of any form, the hillside regulation would apply. If they came in with something other than residential but allowed with APO, the hillside regulations would not apply.

Councilmember Federighi said she does not want to see office on the parcel at all. She thinks the Council has said all along that the area should be residential. She was not sure what to do with Parcel 28, but if the Council were to say all properties were LR-10 or LR-5 or some other designation, the disadvantage from the developer's point of view would be that they would have to propose a General Plan Amendment to have a project that would be allowed under that designation. Ms. Sinnette said if staff completed the General Plan and rezoning process, this would be the case. If staff started it tonight and the developer came in with a plan in-between, staff could always bring this forward to the Council because environmental review will take at least two months to conduct. Therefore, this is another possibility. She said the Council could also provide a specific deadline to submit something on the Dettmer property.

Councilmember Federighi said the entire area has been very difficult for the Council for years. At the time the General Plan was adopted, the Council said it would go ahead with the specific plan which turned out to be much more expensive than what we were able to afford. But the Planning Commission spent numerous meetings going over slope/density calculations and other constraints and opportunities. Therefore, she would be willing to hold off longer and see what the proposal comes in as, realizing this is a gateway area and a rural area in the town and any proposal will be well scrutinized.

Mayor Tatzin suggested directing staff to return and set a meeting for planning purposes with a specific proposal to rezone Lots 10 and 16 to LR-10, figure out how to address the unique portion of Lot 21 to accommodate more density, and then potentially do a split zoning on Lot 27, and whatever the Council believes is best for Lot 28. In the meantime, if a proposal comes in, the Council can review it and decide whether to continue that process, but this clearly indicates a direction.

Councilmember Anderson said the council could also begin the process in the next couple of months and the City may see an application or not. Mayor Tatzin believed this was a lower cost approach. Councilmember Federighi questioned what the lower approach was that Mayor Tatzin

wanted for Lot 27. Mayor Tatzin said a lower approach is that something is clearly more visible from Pleasant Hill Road but less visible from the gateway to the community or Highway 24. So, on the upper portion of Lot 27, he would go for an LR zoning and then whether there is proposed either moderate residential density or clustered residential housing on the lower portion might be acceptable. In the meantime, it would stay as it is now.

Councilmember Federighi questioned how soon would the process start, and Mayor Tatzin suggested it return to the Council in June for review and at that time, there might be interest from a developer or property owner, which might cause the Council to abandon another approach. He confirmed it would be for all of the 7 parcels.

Councilmember Anderson preferred going with LR-10 on the split zone on the upper portion of Lot 27 and MRT for some institutional or convalescent homes on the lower section. Councilmember Federighi said she would rather support LR-5 on the upper portion rather than LR-10. Councilmember Anderson said LR-10 is the zoning on all other parcels in the area, but Councilmember Federighi believed Lot 27 was different from the others. Mayor Tatzin said he thought the upper portion was actually more visible. Councilmember Anderson said he would prefer LR-10 on the upper portion.

Ms. Sinnette said on October 9th, the Council directed her to rezone 5 of the parcels, and she questioned if all would be continued to a June date. City Clerk Robbins noted that Councilmember Anduri would not be available for either meeting in June. Ms. Sinnette said when staff returns, a preliminary development proposal might be returned, but regardless of this, she confirmed that the Council wanted a recommendation on zoning from staff on Parcels 27 and 28. Councilmembers believed there was support for split zoning on Parcel 27, but there was disagreement over LR-5 or LR-10 for the upper portion and MRT for the lower portion, and MRT for Parcel 28, as well. Ms. Sinnette noted the split zoning recommended was actually staff's recommendation twice to the Planning Commission.

ACTION: It was M/S/C (Anderson/Andersson) to continue the public hearing and direct staff to return on June 8th to initiate proceedings to amend the General Plan and zoning designations. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

11. CONSENT CALENDAR

ACTION: It was M/S/C (Anderson/Andersson) to convene jointly as the Redevelopment Agency. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).
ACTION: It was M/S/C (Anderson/Andersson) to approve Consent Calendar items A, B, C, D, E, F, G, H, I, J, K and L. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Federighi, Anderson; Noes: None; Absent: Anduri).

A. City Council Minutes
1. **March 9, 2009**
   Recommendation: Approve.
2. **March 16, 2009**
   Recommendation: Approve.

B. Resolution 2009-16 Ordering the Preparation of a Report Proposing the Levy of Assessments for 2009-2010 for the Core Area Landscaping and Lighting District 1979-1
Recommendation: Adopt Resolution 2009-16.

Stanley Blvd
Deer Hill Rd
Pleasant Hill Rd
Boundary of Class 1
Ridgeline Setback
Bay Area Rapid Transit
Copyright ©2009, Customer Data, County Appraiser, TeleAtlas, Digital Map Products

Parcel 27

Class 1 Ridgeline Setback

Pleasant Hill Rd
Deer Hill Rd
Boundary of Class1
Ridgeline Setback
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Parcel 28

Class 1 Ridgeline Setback

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LR

Low-Density Residential District

6-7161 General.
6-7162 Purposes.
6-7163 Uses permitted.
6-7164 Uses requiring a permit.
6-7165 Lot area.
6-7166 Lot width.
6-7167 Lot depth.
6-7168 Height.
6-7169 Yards.
6-7170 Parking space.
6-7171 Variances.
6-7172 Design review criteria and approval.

NOTE: The City has other regulations, which may affect individual properties, including, but not limited to hillside development, structures over 17-ft. in height, development in excess of 6,000 sq. ft., tree protection, grading, and public art. Please review the Project Checklist available on the City of Lafayette web site at www.lovelafayette.org for an overview of regulations that might apply. You may consult Planning Services Division staff to ascertain which rules and regulations apply to any given project.

ATTACHMENT 6

Low-Density Residential District

6-7161 General.

All land in the low-density residential district (map symbol L-R) shall be used in accordance with this article. (Ord. 410 § 1 (part), 1993)

6-7162 Purposes.

The purposes of the low-density residential (L-R) district include the following:

(a) Provide for areas of very low-density residential uses consistent with the general plan and with the city's primary objective of preservation and enhancement of its semirural residential character;

(b) Promote the health, safety and welfare of the community by protecting the land in the L-R district from uses which would disturb the natural environment and increase geologic, pedologic, seismic, hydrologic or other inherent hazards;

(c) Preserve and maintain the scenic, recreational, biotic, historic and other resources of land in the L-R district.

(Ord. 410 § 1 (part), 1993)

6-7163 Uses permitted.

In the L-R district, the following uses are permitted:

(a) A detached single-family dwelling on each lot and the accessory structures and uses normally auxiliary to it;

(b) The keeping of livestock, consistent with recognized principles of range management and in compliance with Sections 6-523 and 6-524;

(c) Small farming, including the raising of poultry or rabbits or other grain-fed rodents exclusively for home consumption in compliance with Section 6-524;

(d) A home occupation.

(Ord. 410 § 1 (part), 1993)

6-7164 Uses requiring a permit.

The planning commission, after a public hearing and upon a showing by an applicant that such use is consistent with the uses in the general area, may grant a land use permit for the following uses:

(a) A residential business;

(b) Publicly owned buildings and structures, except as provided in Section 6-516;

(c) Crop and tree farming, horticulture, viticulture, grazing and other similar agricultural uses;

(d) Community building, club or activities of a quasi-public, social or fraternal character, private recreational facility, such as a golf club, swimming pool and tennis club, whether or not operated for profit;

(e) Horse riding academy or horse riding school meeting the requirements of Sections 6-523 and 6-524;

(f) Multiple pet activity on a parcel of land 20,000 square feet in size or larger;

(g) Kennel activity;

(h) A second unit which complies with Sections 6-560—6-566;

(i) Uses which the planning commission has found, after notice and hearing, to be comparable to the uses enumerated in this section.

(Ord. 410 § 1 (part), 1993)

6-7165 Lot area.

The minimum lot area in the L-R district is five acres subject to the following qualification: If the parcel has an average slope of 15 percent or more and is created as a result of a land division of an L-R parcel after July 28, 1993, the minimum lot area is five acres or that required by Section 6-3104 whichever is greater. (Ord. 410 § 1 (part), 1993)

6-7166 Lot width.

No lot may be created in the L-R district that is less than 200 feet in average width. (Ord. 410 § 1 (part), 1993)

6-7167 Lot depth.

No lot may be created in the L-R district that is less than 200 feet deep. (Ord. 410 § 1 (part), 1993)

6-7168 Height.

No single-family dwelling or other structure permitted in the L-R district shall exceed 30 feet in height or two and one-half stories. (Ord. 410 § 1 (part), 1993)

6-7169 Yards.

All buildings erected in the L-R district, including accessory buildings, shall be a minimum of 50 feet from property lines or easement lines. (Ord. 410 § 1 (part), 1993)

6-7170 Parking space.

(a) Residential Parking Space. Every dwelling unit permitted in the L-R district shall have, on the same lot or parcel, space for at least four automobiles. Each parking space shall be paved and shall have dimensions of at least ten feet by 20 feet, and shall not be located within 50 feet of any property line.

(b) Nonresidential Parking Space. Parking for a recreation building, club building or other nonresidential use in the L-R district is governed by Sections 6-601—6-661. (Ord. 410 § 1 (part), 1993)

6-7171 Variances.

The planning commission may grant a variance to alter the requirements of Sections 6-7165—6-7170 in accordance with the applicable provisions of Sections 6-201—6-238. (Ord. 410 § 1 (part), 1993)

6-7172 Design review criteria and approval.

(a) The design review approval requirement applies to all L-R properties. However, the primary purpose of design review is to regulate development on hillside or ridgeline properties which (1) are susceptible to environmental damage due to geologic, pedologic, seismic, hydrologic disturbances caused by nature and man or (2) are viewable from lower elevations. The regulation shall be administered in a manner to meet the physical and visual characteristics of each site.

(b) On each hillside or ridgeline lot particular attention shall be given in the design review process to prevent or reduce the adverse effects of grading and drainage.

(c) Each dwelling unit shall be substantially concealed by vegetation or terrain or both when viewed from lower elevations from publicly owned property (including freeways, other public roadways, public open space and parks). It is the intent of this requirement to protect views of the open and highly visible portions of the scenic hillsides and ridgelines so that they will appear essentially undeveloped as viewed from below the dwelling. On file in the office of the planning director is a map entitled "viewing evaluation," dated March 1, 1993 and prepared by the planning department which is intended as a guide to establish locations from which views will be determined.

(d) No building, structure or other facility, including a road, driveway, retaining wall over three feet in height or graded slope over six feet in height may be constructed, established or altered in such a manner as to affect the existing physical condition or exterior appearance, unless the design review commission first approves plans in accordance with the procedure in Sections 6-270—6-281.

(e) The planning director shall determine, through review of information provided by the applicant and field inspection, whether a proposal subject to design review shall be reviewed by the design review commission or by the planning director. The planning director may retain approval authority if:

(1) The proposed structure cannot be seen from areas indicated in the viewing evaluation map that are lower in elevations than the proposal; and

(2) The improvement proposed does not require a grading permit, nor the removal of trees over four inches in diameter; and

(3) The proposal is one story in height.

(Ord. 410 § 1 (part), 1993)

6-526 Height limitations in required yards.

(a) Accessory buildings, as defined in Section 6-302 of this title, and structures, as defined in Section 6-355 of this title, shall not exceed the following height limits, if constructed in the required setback (front yard), side yard or rear yard which is applicable to the main building or principal structure on the lot:

(1) Accessory buildings, 12 feet;

(2) Structures, six feet.

For example, if the rear yard for the principal structure is 15 feet, but the rear yard for an accessory building is three feet, any accessory building within the 15-foot rear yard required for the principal structure shall not exceed 12 feet in height.

(b) For the purpose of this section, the height of a structure shall be determined by measurement on its tallest side between natural grade and its highest part; and the height of an accessory building shall be determined as provided in Section 6-313 of this title.

(c) Variance permits to modify the provisions of this section may be granted in accordance with the applicable provisions of Chapter 6-1 of this title.

(Ord. 274 § 1, 1982: Ord. 243 § 2, 1981)

NOTE: These height provisions apply to accessory structures or buildings located in Residential Zoning Districts.

6-271 Definitions—Applicability.

(a) "Design review" means review of the aesthetic elements of a project. Reference elsewhere in this title or in conditions of approval to design approval, site plan and building elevations approval, or in the case of the environmental review commission, means design review under this article.

(b) "Gross floor area," under this article, means the total horizontal area in square feet of each floor within the exterior walls of all buildings on a parcel, including garages and carports as measured at the exterior face of the enclosing walls.

(c) This article applies to:

(1) New construction, exterior remodeling, or any change to a structure or facility which affects the exterior appearance, and which occurs in a multiple-family or commercial land use district (site plan and building elevations applications);

(2) A project or construction for which design review is required as a condition of approval;

(3) Any other projects for which design review is required; and

(4) New single-family residential construction which exceeds 6,000 square feet in gross floor area or an addition to an existing residence which will increase its gross floor area to over 6,000 square feet and which occurs in a single-family residential district.

(Ord. 386 § 2, 1991: Ord. 324 § 1 (part), 1984)

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LR-5

Low-Density Residential District - 5

6-7181 General.
6-7182 Purposes.
6-7183 Uses permitted.
6-7184 Uses requiring a permit.
6-7185 Development requiring hillside development permit.
6-7186 Lot area.
6-7187 Lot width.
6-7188 Lot depth.
6-7189 Height.
6-7190 Yards.
6-7191 Parking spaces.
6-7192 Variances.

NOTE: The City has other regulations, which may affect individual properties, including, but not limited to hillside development, structures over 17-ft. in height, development in excess of 6,000 sq. ft., tree protection, grading, and public art. Please review the Project Checklist available on the City of Lafayette web site at www.lovelafayette.org for an overview of regulations that might apply. You may consult Planning Services Division staff to ascertain which rules and regulations apply to any given project.

6-7181 General.

All land in the low-density residential district – 5 (map symbol L-R-5) shall be used in accordance with this article.

6-7182 Purposes.

The purposes of the low-density residential (L-R-5) district include the following:

A. Provide for areas of low-density residential uses consistent with the general plan and with the city's primary objective of preservation and enhancement of its semi-rural residential character;
B. Promote the health, safety and welfare of the community by protecting the land in the L-R-5 district from uses that would disturb the natural environment and increase geologic, pedologic, seismic, hydrologic or other inherent hazards;

C. Preserve and maintain the scenic, recreational, biotic, historic and other resources of land in the L-R-5 district.

6-7183 Uses permitted.

In the L-R-5 district, the following uses are allowed on a lot:

A. A single-family residence and an accessory structure and use normally auxiliary to it;

B. The keeping of livestock, consistent with recognized principles of range management and in compliance with sections 6-523 and 6-524;

C. Small farming, including the raising of poultry or rabbits or other grain-fed rodents exclusively for home consumption in compliance with section 6-524;

D. A home occupation.

6-7184 Uses requiring a permit.

The planning commission, after a public hearing and upon a showing by an applicant that such use is consistent with the uses in the general area, may grant a land use permit for the following uses:

A. A residential business;

B. Church, religious institution, parochial and private school, including nursery school;

C. Publicly owned buildings and structures, except as provided in section 6-516;

D. Crop and tree farming, horticulture, viticulture, grazing and other similar agriculture uses;

E. Community building, club or activities of a quasi-public, social or fraternal character, private recreational facility, such as a golf club, swimming pool and tennis club, whether or not operated for profit;

F. Horse riding academy or horse riding school meeting the requirements of sections 6-523 and 6-524;

G. Kennel activity;

H. Uses that the planning commission has found, after notice and hearing, to be comparable to the uses enumerated in this section.

6-7185 Development requiring hillside development permit.

New development or the expansion of an existing use requires the issuance of a hillside development permit pursuant to sections 6-2061 et seq.

6-7186 Lot area.

The minimum lot area in the L-R-5 district is five acres.

6-7187 Lot width.

No lot shall be created in the L-R-5 district that is less than 200 feet in average width.

6-7188 Lot depth.

No lot shall be created in the L-R-5 district that is less than 200 feet deep.

6-7189 Height.

No single-family residence dwelling or other structure permitted in the L-R-5 district shall exceed 30 feet in height or two and one-half stories, whichever is less.

6-7190 Yards.

Each building erected in the L-R-5 district, including an accessory building, shall be a minimum of 50 feet from property lines or easement lines.

6-7191 Parking spaces.

A. Residential parking space. Each dwelling unit permitted in the L-R-5 district shall have, on the same lot or parcel, space for at least four automobiles. Each parking space shall have dimensions of at least 10 feet by 20 feet, and shall not be located within 50 feet of any property line.

B. Nonresidential parking space. Parking for a recreation building, club building, or nonresidential uses in the L-R-5 district is governed by sections 6-601 through 6-661.

6-7192 Variances.

The planning commission may grant a variance to alter the requirements of 6-7187 through 6-7191 in accordance with the applicable provisions of sections 6-201 through 6-238.

6-526 Height limitations in required yards.

(a) Accessory buildings, as defined in Section 6-302 of this title, and structures, as defined in Section 6-355 of this title, shall not exceed the following height limits, if constructed in the required setback (front yard), side yard or rear yard which is applicable to the main building or principal structure on the lot:

(1) Accessory buildings, 12 feet;

(2) Structures, six feet.

For example, if the rear yard for the principal structure is 15 feet, but the rear yard for an accessory building is three feet, any accessory building within the 15-foot rear yard required for the principal structure shall not exceed 12 feet in height.

(b) For the purpose of this section, the height of a structure shall be determined by measurement on its tallest side between natural grade and its highest part; and the height of an accessory building shall be determined as provided in Section 6-313 of this title.

(c) Variance permits to modify the provisions of this section may be granted in accordance with the applicable provisions of Chapter 6-1 of this title.

(Ord. 274 § 1, 1982: Ord. 243 § 2, 1981)

NOTE: These height provisions apply to accessory structures or buildings located in Residential Zoning Districts.

6-271 Definitions—Applicability.

(a) "Design review" means review of the aesthetic elements of a project. Reference elsewhere in this title or in conditions of approval to design approval, site plan and building elevations approval, or in the case of the environmental review commission, means design review under this article.

(b) "Gross floor area," under this article, means the total horizontal area in square feet of each floor within the exterior walls of all buildings on a parcel, including garages and carports as measured at the exterior face of the enclosing walls.

(c) This article applies to:

(1) New construction, exterior remodeling, or any change to a structure or facility which affects the exterior appearance, and which occurs in a multiple-family or commercial land use district (site plan and building elevations applications);

(2) A project or construction for which design review is required as a condition of approval;

(3) Any other projects for which design review is required; and

(4) New single-family residential construction which exceeds 6,000 square feet in gross floor area or an addition to an existing residence which will increase its gross floor area to over 6,000 square feet and which occurs in a single-family residential district.

(Ord. 386 § 2, 1991: Ord. 324 § 1 (part), 1984)

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MRT

Multiple-family Residential Townhouse District

6-881 General.
6-882 Purpose.
6-883 Uses permitted.
6-884 Uses requiring a permit.
6-885 Density.
6-886 Height.
6-887 Property development standards.
6-888 Open space.
6-889 Design review.
6-890 Parking.
6-891 Site plan and building elevation approval.
6-892 Modifiable sections.

NOTE: The City has other regulations, which may affect individual properties, including, but not limited to hillside development, structures over 17-ft. in height, development in excess of 6,000 sq. ft., tree protection, grading, and public art. Please review the Project Checklist available on the City of Lafayette web site at www.lovelafayette.org for an overview of regulations that might apply. You may consult Planning Services Division staff to ascertain which rules and regulations apply to any given project.

Multiple-family Residential Townhouse District

6-881 General.

All land in the multiple-family residential townhouse district (map symbol M-R-T) shall be used in accordance with the provisions of this article. (Ord. 129 § 2 (part), 1974)

6-882 Purpose.

The purpose of this article is to provide a medium-density residential district for townhouse development, which will be consistent with and further the city's overall planning objective of the preservation and enhancement of its semirural residential character. The regulations in this article are intended to require carefully conceived plans at a physical scale compatible with nearby residential areas; to preserve natural settings and open space; to ensure attractive and compatible architectural treatment of structures; to achieve the optimum in quality development, preservation of the environment, enhancement of the tax base, and beneficial use of available land; and to provide for development which is consistent with the goals and policies and other provisions of the general plan. (Ord. 314 § 1 (part), 1984: Ord. 129 § 2 (part), 1974)

6-883 Uses permitted.

The following uses are permitted in the M-R-T district:

(a) Townhouses;

(b) Foster homes or family care homes operated by a public agency, or by a private agency which has obtained state or local approval (license) for the proposed operation, where not more than six minors reside on the premises with not more than two supervisory persons;

(c) Residential care homes for the aged, operated by a public agency, or by a private agency which has obtained state or local approval (license) for the proposed operation, where not more than six aged persons reside on the premises with not more than two supervisory persons;

(d) Home occupations.

(Ord. 129 § 2 (part), 1974)

6-884 Uses requiring a permit.

In the M-R-T district, the following uses are permitted on the issuance of a land use permit:

(a) Residential businesses;

(b) Eleemosynary and philanthropic institutions, convalescent homes and boarding homes;

(c) Uses which the planning commission has found, after notice and hearing, to be comparable to the above uses.

(Ord. 129 § 2 (part), 1974)

6-885 Density.

The maximum number of dwelling units permitted on any lot in the M-R-T district shall conform to the general plan density range for that area. (Ord. 314 § 1 (part), 1984: Ord. 129 § 2 (part), 1974)

6-886 Height.

No building in the M-R-T district may exceed 25 feet in height. (Ord. 129 § 2 (part), 1974)

6-887 Property development standards.

There are no minimum standards for lot area, setback, side and rear yard, and lot coverage in the M-R-T district. This is intended to allow flexibility in design. During the review process, the planning commission may impose such conditions as it deems necessary to assure in any development proposal

provision of adequate privacy, general appearance and relationship to the natural and manmade elements of the environment. (Ord. 314 § 1 (part), 1984: Ord. 129 § 2 (part), 1974)

6-888 Open space.

A minimum of 50 percent of the ground level of a lot in the M-R-T district shall not be occupied by buildings, structures or pavement for automobiles, but shall be maintained as open space and devoted to landscaping. Open space includes landscaped open space and ground-level private open space. (Ord. 314 § 1 (part), 1984: Ord. 129 § 2 (part), 1974)

6-889 Design review.

All new construction and all remodeling of a structure when the completed new work will be visible from public property, or when the nature of the use will be changed, shall be subject to the design review requirements and procedures set forth in Part 1 of this title. (Ord. 324 § 2(d) (part), 1984: Ord. 314 § 1 (part), 1984: Ord. 129 § 2 (part), 1974)

6-890 Parking.

(a) In the M-R-T district off-street parking shall be provided on the same lot, convenient to all dwelling units, in accordance with the following schedule:

(1) One-bedroom units, 1.5 spaces per unit;

(2) Two or more bedroom units, 2.0 spaces per unit.

(b) In addition, one guest parking space shall be provided for each five dwelling units. A minimum of one parking space per unit shall be covered.

(c) The provisions of Chapter 6-6 of this title apply to the M-R-T district.

(Ord. 314 § 1 (part), 1984: Ord. 129 § 2 (part), 1974)

6-891 Site plan and building elevation approval.

(a) In the M-R-T district no building shall be constructed or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal have been approved pursuant to the site plan and building elevations requirements set forth in Part 1 of this title.

(b) Design review of townhouses shall include special emphasis to ensure that building styles and forms, clustering arrangements, heights, materials, colors, street alignments, grading approaches and introduced plantings are designed in a manner which is harmonious and consistent with nearby residential units and which minimizes visual impact from public property.

(Ord. 314 § 1 (part), 1984)

6-892 Modifiable sections.

Land use permits for the special uses enumerated in Section 6-834 and variance permits to modify the provisions of Sections 6-886, 6-888, 6-889 and 6-890 may be granted in accordance with the applicable provisions of Chapter 6-2 of this title. (Ord. 314 § 1 (part), 1984)

Excerpt from Land Use Chapter of the Lafayette General Plan

Goal LU-13: **Ensure that the Eastern Deer Hill Road area near the intersection of Pleasant Hill Road is developed, where development is appropriate, in a manner consistent with Lafayette's community identity.**

Policy LU-13.1 Preserve and enhance the semi-rural single-family residential character north of Deer Hill Road where not adjacent to Pleasant Hill Road.

Policy LU-13.2 Consider options for development south of Deer Hill Road and north of Deer Hill Road where adjacent to Pleasant Hill Road.

Program LU-13.2.2: Prepare through a community planning process an Eastern Deer Hill Road Specific Plan that includes the following requirements:

a) Protect and enhance the rural character of the area north of Deer Hill Road where not adjacent to Pleasant Hill Road.
b) Preserve prominent views.
c) Include development standards that maintain the semi-rural character of the area and the community.
d) Utilize the property south of Deer Hill Road to help communicate the image of Lafayette as a semi-rural community.

Remainder of Deer Hill Road Corridor (from Elizabeth Street west to Happy Valley Road)

Due to the proximity to the Downtown and the BART station, this section of Deer Hill Road and the single-family neighborhood that lies north of Deer Hill Road are constantly faced with development pressures to utilize the infill areas more intensively than currently planned or zoned It is the specific intent of the community to restrict commercial and multifamily uses to the south side of the freeway, which in this area is the terminus of the Downtown to the south, in order to protect the single-family residential neighborhoods that lie north of the freeway.

Goal LU-14: **Protect the single-family residential neighborhoods north of Hwy 24 from commercial and multi family development.**

Policy LU-14.1 Continue to maintain the freeway as the dividing line separating the Downtown from the semi-rural, single-family residential areas to the north.

Program LU-14.1.1 Consistent with the community's identity, allow only those uses on Deer Hill Road that are permitted by right, or with a use permit, in the single-family residential zoning districts.